

**DAVIE WATER AND ENVIRONMENTAL
ADVISORY BOARD
AUGUST 15, 2006**

1. ROLL CALL

The meeting was called to order at 5:40 p.m. Board members present were Vice-Chair Don Zane, Donald Prichard, Gary Gaffney and Paul Cirinese. Also present were Acting Utilities Director Bruce Taylor, Code Compliance Official Daniel Stallone and Board Secretary Jenevia Edwards recording the meeting. Marlena Mosby was absent.

2. APPROVAL OF MINUTES: April 18, 2006

Mr. Prichard made a motion, seconded by Mr. Cirinese, to approve the minutes of April 18, 2006. In a voice vote, with Ms. Mosby being absent, all voted in favor. **(Motion carried 4-0)**

3. PRESENTATION

3.1 Enforcement Issues – Daniel Stallone, Code Compliance Official

Mr. Stallone explained that one of the important components of what Code Compliance did in the Town included much of what this Board was charged with, although Code Compliance's primary focus was not water or engineering. He added that the primary focus for water was the Central Broward Water Control District and engineering involved engineering personnel. Mr. Stallone indicated that the Code Compliance Division worked closely with the Engineering Department on drainage issues.

Mr. Stallone devoted a lengthy discussion to the types of issues with which the Code Compliance Division became involved including new developments and their adherence to the drainage patterns for which they were approved and for future evolution of the plans. He spoke about an overall drainage plan indicating that he was not sure if the Town had one. Mr. Cirinese confirmed that the Town did not have an overall drainage plan. A brief discussion followed regarding drainage issues, flood control, history and origin of all the drainage districts, with the conclusion that this was came under the auspices of the Central Broward Water Control District.

Mr. Stallone explained that his main discussion would be centered around clearing and grubbing. He commented that after perusing the basis and foundation for which the Board was created, it appeared that wildlife was a consideration along with certain aspects of drainage. Mr. Stallone highlighted the evolution of the four-pronged approach to clearing and grubbing which included the wildlife survey, the vegetation or tree survey, sedimentation control mechanisms and the wildlife considerations. He added that without interaction with landscaping and the site plan development requirements of the Engineering Department, there was reaction to different occurrences.

Lengthy discussion followed concerning the removal of trees, the effect of large equipment on soil, foliage and wildlife. Mr. Stallone explained the steps being taken by the various divisions in the Town to minimize these effects, and highlighted the Boy Scouts property which sustained extensive damage from Hurricane Wilma. He explained that he met with a representative from the engineering firm that was responsible for the tree removal on the Boy Scouts property and asked that the representative meet with staff from different divisions in the Town to see what the requirements would be since this would involve more than just tree clearing. Mr. Stallone indicated that the Town wanted to be a step ahead of developers by trying to protect what it believed to be its natural resources thus requiring developers to go through specific hurdles. He commented that utilization of the Special Magistrate process was successful in cases where developers had made the decision to perform clearing and grubbing in a manner that was not approved by the Town. Mr. Stallone advised that in addition to the special magistrate process, there was the imposition of fines relative to irreparable harm or damage, and the State Statutes permitted the imposition of fines of \$5,000 per violation. Mr. Stallone explained that there was discussion between himself and Development Services Director Mark Kutney to make a presentation to Town Council asking for an increase of fines that was allowable under a portion of the State Statutes for ordinary fines to be

**DAVIE WATER AND ENVIRONMENTAL
ADVISORY BOARD
AUGUST 15, 2006**

increased to \$1,000, repeat violations to \$5,000, and irreparable violations to \$15,000. He added that the pending increase would help to ensure compliance.

Mr. Stallone spoke on environmental protection and the statutes that applied to them, adding that he had thought of making suggestions for improvements to the Town's Code. However, under Chapter 27 of Broward County's Code for the Environmental Department they already maintain a number of statutes that were effective. He explained that the Town worked closely with the County on certain cases when the need arose.

Mr. Stallone advised that he was recently contacted by a representative from the Florida Farm Bureau who was conducting an analysis on environmental crimes for a national organization similar to Crime Watch with which he was involved. He commented that the police had arrest powers over environmental crimes. Mr. Stallone highlighted a dumping incident that occurred at a commercial site in east Davie where evidence indicated that this was carried out by a Hollywood resident. He advised that by citing this person it was hoped the real perpetrator would be found.

Mr. Stallone commented that there were different aspects of Code Compliance and asked if Boardmembers had any questions that related to specific issues.

Vice-Chair Zane commented that the Code Compliance Division appeared to be "on top" of the issues involving developers, but expressed concern that there were areas that still had not been cleaned up since the hurricane. A lengthy discussion followed regarding the cleanup issue with Vice-Chair Zane commenting that there were large numbers Australian Pines on the banks of the canal along 136th Street, and in the event of another hurricane, the canals would not be able to drain. Mr. Gaffney questioned if these trees were in the rights-of-way or on private property. Vice-Chair Zane responded that he did not know what the right-of-way was for Central Broward Water Control District. He explained that the Central Broward Water Control District had done some cleaning of the areas; however, there had been no maintenance by the Town and the dead trees and foliage on many properties in the area were presenting a fire hazard.

Mr. Gaffney commented that he had previously suggested that an ordinance be created whereby the Town would become proactive in the removal of Australian Pines and Mellalucas. He commented that these trees were already outlawed under the Code; however, the argument was that the Town did not have enough funds to get a few trucks to drive around and remove trees in the rights-of-way, or ask private owners if they wanted to have the Australian Pines removed. Mr. Gaffney indicated if the trees were removed, the present problems would no longer exist. Vice-Chair Zane commented that he was always alert to the smell of smoke and had installed a fire pump to his well in case of a fire.

The Board discussed the removal of hurricane debris, the expense faced by individuals and the issue of bulk trash pickup. Mr. Gaffney asked if there was any way to speed up the bulk pick-up during the hurricane season. Mr. Stallone commented that the bulk pick-up was separate issue; however, if anything good came from the hurricane, it was the ability to have many of the fallen trees removed. He spoke of concerns presented to him by a homeowner's association president concerning Australian Pines and the potential for danger which they created. Mr. Stallone commented that even under the law, although the trees were potentially dangerous, they did not create an imminently hazardous condition.

A lengthy discussion ensued regarding the nuisance issue, the potential for danger and imminent hazardous conditions posed by Australian Pines and the cost for removal. Mr. Gaffney reiterated his previous argument that the Town should be proactive in the removal of Australian Pines whether they were located in the Town's rights-of-way or on private property. He argued that if a property owner wanted to have these trees removed due to the imminent danger they posed, the Town should be able to provide some assistance.

**DAVIE WATER AND ENVIRONMENTAL
ADVISORY BOARD
AUGUST 15, 2006**

Mr. Stallone agreed that the concerns were valid but it would be cost prohibitive on the Town's part, and the Town was unable to expend the type of funds that would be required for the removal of these trees which would be just as cost prohibitive for a private property owner. A brief discussion ensued regarding funding sources such as a grant which could be used for tree removal. Mr. Gaffney argued that this was a liability issue, adding that nothing could be more dangerous than a tree that was a non-native species that was not being maintained which posed an obvious potential for danger to an area which included life, limb and property. Mr. Stallone advised that there were areas in the law that indicated the differentiation between what was hazardous and what was imminently hazardous; however, if a property owner was aware of a diseased tree that was over 150 feet in height and took no action after being notified, there was a different standard of care required as opposed to a healthy tree that was very tall. Mr. Gaffney disagreed.

Mr. Stallone advised that as the Code Compliance Official, he did not have the capability or jurisdiction over the issue which fell under the domain of the Town Administrator or the Public Works Director, which was a vacant position. He commented that the previous Public Works Director had not taken any action which might have been due to lack of funding; however, the answer to this question should be directed to the new director when he took office. Mr. Gaffney commented that there had been lengthy discussions on the issue and a code change might be necessary.

Vice-Chair Zane asked if a tree affecting a Town road came under the purview of the Code Compliance Division. Mr. Stallone responded that if it was a private homeowner's tree, it would be destruction of public property. A lengthy discussion followed regarding imminent danger determination, safety issues on roadways and the cost prohibitiveness of tree removal. Mr. Gaffney commented that he would like to see the end of mitigation and the funds from Code Compliance fines be used towards some of the issues that were discussed. Mr. Stallone spoke of an agreement with an owner of a 10 acre site to cut trees on the property prior to development. He added that when development began on the property, the developer would pay to have the trees removed. Mr. Stallone stated that this was the easiest way to get compliance.

Discussion continued regarding the tree removal process with Mr. Stallone advising of a State Mellaluca Eradication Program; however, he did not know enough about it. He believed that the Town's landscape inspectors would be privy to the information; additionally, he did not know if there were State funds available. Mr. Stallone added that if there was a program for the eradication and disposal of Mellalucas and Australian Pines it would be beneficial to the Town to be rid of those invasive species.

Mr. Gaffney referred to the dumping incident that was previously discussed and asked about resolution of the issue. Mr. Stallone explained that there were several provisions in the Code, one of which was for dumping on private property by other individuals and this was a littering violation. He added that an incident of a greater nature would be considered an environmental crime. Mr. Stallone indicated that his request for assistance of the Broward County Environmental Department was not forthcoming which led him to use Code Compliance procedures. Mr. Gaffney asked if there had been any challenge to the procedure with Mr. Stallone responding that the process had just begun.

Discussion continued regarding environmental issues with Mr. Stallone highlighting the Lamar Electronics case and the proceedings that lead to the property owner being cited and fined. He explained that under the guise of being a farm, they took in solid waste from several landscape companies which changed the elevation of the property. Mr. Stallone indicated that this became a solid waste management facility and there were certain preconditions to acquire a license from the County for that type of business; also, under the Town's zoning code, this was a not permitted use. Mr. Gaffney asked if the fines, when they were collected, would go into the general fund with Mr. Stallone responding in the affirmative. Mr. Gaffney commented that those funds could help towards the tree removal process.

**DAVIE WATER AND ENVIRONMENTAL
ADVISORY BOARD
AUGUST 15, 2006**

Mr. Gaffney asked how anonymous calls were handled by the Town. Mr. Stallone explained that all complaints were treated as being valid complaints; however, if the person whom the complaint was made against wanted to know who the complainant was, a formal public records request had to be made.

Mr. Prichard spoke about environmental issues involving abandoned vehicles, residents performing mechanical work in their yard which resulted in junk trash, and asked what the Code Compliance Division was doing to solve the problem. He indicated that the police were able to enforce municipal codes and work together with the Code Compliance Division. Mr. Stallone explained that under the Town's Code, derelict property could be cited and this was done regularly. In the case of towing of vehicles on public property which occurred on a regular basis, the police worked in close conjunction with the Code Compliance Division. Mr. Stallone highlighted several locations about which complaints had been made and commented that these were being addressed. He extended an invitation to Mr. Prichard to attend a Special Magistrate Hearing to observe the proceedings.

A lengthy discussion ensued concerning municipal code violations with Mr. Prichard explaining that he was a deputy sheriff and his main focus was code enforcement. This was self initiated because the County's code enforcement was very slim. Mr. Prichard indicated that tickets were issued to violators under the County Ordinance "Notice to Appear" and suggested that a team of Davie police officers could act as inspectors since there was a shortage of staff. Mr. Gaffney commented that maybe the authority given to Mr. Prichard as a deputy sheriff might be different than that given to Davie police officers. Mr. Stallone indicated that the Police Department could cite for municipal Code violations. Vice-Chair Zane indicated that he had been informed by a Davie police officer that he could not issue a citation for municipal violation. Mr. Stallone indicated that Notices to Appear could be issued by the Police Department for municipal Code violations.

Mr. Gaffney questioned whether there was anything unique in the Town's Charter that prevented Davie police officers from issuing citations. Mr. Prichard cited several instances when local police officers were able to write citations, adding that the issue of citations were governed by State Statutes which could not be superseded but additions could be made to the statutes. He added that municipal ordinances could not be enforced by Broward Sheriff's Office unless there was an interlocal agreement with the contract city. Vice-Chair Zane asked Mr. Stallone to e-mail a copy of the statute to him as he planned to discuss the issue with the Town Council. Mr. Stallone added that further discussion should involve Police Chief John George.

The Board discussed noise issues and whether the police could write a citation involving noise. Mr. Stallone responded in the affirmative and added that this depended on the decibel reading. He discussed the various type of noise and pointed to the issue as it related to a barking dog and how this was handled by the Police officers after office hours, adding that proper documentary evidence was necessary for Code Compliance follow-up. Mr. Stallone stated that it was mounting evidence that enable Code Compliance action.

Mr. Prichard made a motion that Council create a joint task force to reduce the quality of life issues and relieve the burden on Code Enforcement, and distribute it evenly with the Police Department. Discussion followed with Mr. Stallone explaining that it was Code Compliance's job to address the issues and he was not complaining about the burden; however, assistance from the other agencies would be welcomed. Mr. Prichard commented that assistance from other agencies would enable the Code Compliance Division to concentrate on more enforcement issues, or issues that were not complained about and Police Officers could initiate.

Mr. Gaffney asked if Mr. Stallone had any objection to a task force with Mr. Stallone responding negatively. He commented that he would second the motion since Mr. Stallone had no objection.

**DAVIE WATER AND ENVIRONMENTAL
ADVISORY BOARD
AUGUST 15, 2006**

Vice-Chair Zane commented that he thought the idea of a task force was good; however, he suggested that each Boardmember should discuss the issue with their appointing Councilmember. He commented that he was not sure if the idea would “fly” in terms of Council supporting the idea to ask the Police Department. Mr. Stallone explained that the Police Department had always worked with Code Compliance in the past and have continued to do this on a regular basis. He highlighted some of the areas that the police and code have worked together, and added that working with a combination of other agencies was a good idea. Mr. Prichard highlighted an incident where he issued a Notice to Appear to a resident and the property was cleaned up within three days preventing a court appearance. He added that sometimes approaching a resident was the best way to deal with issues. Mr. Gaffney suggested that Mr. Prichard restate his motion to include both concepts of a task force and to get the police more proactive in code enforcement. Mr. Stallone indicated that the police worked with Code Compliance on certain cases and he did not believe that the police were not proactive; however, questions directed to the police should be answered by the police. Mr. Prichard commented that the establishment of a task force would specify what should be done even if an operational plan had to be created.

(Inadvertently, this motion was not voted on and will be readdressed at the next meeting.)

Mr. Stallone stated that Code Compliance was a unique perspective because it covered the full gamut of everything in the Code Book, and anything of a civil nature could be prosecuted through the Code Compliance Division. He added that Code Compliance Divisions were looked on as “step-children” because Code Compliance Officers were not police officers, fire inspectors or building inspectors. Mr. Stallone added that Code Compliance Officers were gaining more prominence, and relative to the need, they were an essential ingredient in insuring that the quality of life and the aesthetics of the community were maintained. He commented that Code Compliance was an important facet of commercial and private property.

Mr. Stallone indicated that the issue with the trees in terms of proactive inspection would be a good policy; however, whether it would be feasible depended on manpower.

4. OLD BUSINESS

There was no old business to discuss.

5. NEW BUSINESS

There was no new business to discuss.

6. AGENDA ITEMS FOR NEXT MEETING

There was no discussion concerning items for the next agenda.

7. COMMENTS AND/OR SUGGESTIONS

There were no comments or suggestions.

8. ADJOURNMENT

There being no further business to discuss and no objections, the meeting adjourned at 7:05 p.m.

Date Approved

Chair/Board Member